



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

MAR 18 2009

Coleen Sullins, Director
Division of Water Quality
North Carolina Department of Environment
and Natural Resources
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

Dear Ms. Sullins:

The U. S. Environmental Protection Agency (EPA) received the revisions to *15A N.C.A.C. 2B Surface Water and Wetlands Standards, Section .0300 Assignment of Stream Classification* which were submitted for review by letter, dated March 19, 2008, and received on March 21, 2008. This letter is in reference to the reclassification of two segments in the Catawba River in the Catawba River Basin (*15A N.C.A.C. 2B .0308*). EPA is partially approving this change to standards as detailed below. A list of the reclassified waterbodies is enclosed.

The public hearing for this revision was held on November 1, 2006. North Carolina finalized the revisions to the State's water quality standards (WQS) with an effective date of May 1, 2007. This reclassification was certified by the North Carolina Attorney General by letter, dated March 13, 2008, as duly adopted pursuant to state law. In accordance with 40 C.F.R. Section 131.21(c), new and revised State and Tribal water quality standards are not effective for Clean Water Act (CWA) purposes until approved by EPA.

Pursuant to Section 303(c)(2) of the CWA, EPA has completed a review of North Carolina's revised standards for these two segments, which consist of the lower two segments of what is known as the Bridgewater Dam Tailrace, beginning approximately one mile below the Bridgewater Dam and ending at the City of Morgantown Water Intake Dam. EPA has determined that this revision of North Carolina's water quality standards to add the designation for the use of trout ("Trout") retains the goals of the Class C waters, including protection of all aquatic life uses and supporting water quality criteria of the State's Class C designation, which also apply to Trout waters. Such revision also includes additional protection of the waters as Trout waters. Therefore, since the water quality criteria and uses of the State's Class C designation provide for protection of the CWA Section 101(a)(2) uses (fishable/swimmable), the revision to the designated use of these two segments of the Catawba River are consistent with the goals of Section 101(a) of the CWA and the implementing regulations at 40 C.F.R. Part 131. The revision of these segments to Trout waters is also consistent with the requirements of 40 C.F.R. 131.10(i) for States to revise standards to reflect the uses actually being attained in the waterbody, and the requirements of 40 C.F.R. 131.12(a)(1) to protect and maintain existing instream water uses and the level of water quality necessary to protect those existing uses. Finally, the revision to the designated use of these two segments is consistent with State regulations at 15A N.C.A.C. 2B .0201(b)(2004) pertaining to the proper classification of waters in order to protect existing uses. Therefore, in accordance with Section 303(c) of the CWA and 40 C.F.R. Part 131, EPA is approving the revisions to designated use in these segments.

Based on the information in the record and provided in support of this revision, EPA has determined that North Carolina's inclusion in the revised standards for these two segments of a seasonal exemption from the approved state criterion for dissolved oxygen (DO) in Trout waters is not fully consistent with the applicable requirements of the CWA and federal and state regulations. Such regulations, including 40 C.F.R. § 131.11, provide that "States must adopt those water quality criteria that protect the designated use. Such criteria must be based on sound scientific rationale and must contain sufficient parameters or constituents to protect the designated use." Further, federal regulations under 40 C.F.R. § 131.6, provide that a State's WQS submission to EPA must include, at a minimum, "methods used and analyses conducted to support water quality standards revisions," as well as "water quality criteria sufficient to protect the designated use." Likewise, 40 C.F.R. § 131.20 provides that the State's submittal of revisions to WQSs shall include "the methodologies used for site-specific criteria development." Finally, 40 C.F.R. § 131.5(a) provides that, pursuant to Section 303(c) of the CWA, EPA must review and approve or disapprove state-adopted WQS, and this review involves the determination of "whether the State has adopted criteria that protect the designated water uses."

In this instance, the State of North Carolina did not provide any scientific justification to show that seasonal DO criterion lower than the State's approved trout DO criterion would be protective of the two trout species in the Tailrace. Consequently, EPA is disapproving the seasonal exemption portion of North Carolina's revisions to these two segments of the Catawba River.

The effect of EPA's partial disapproval will be to approve, for all CWA purposes, North Carolina's designation of these waters for Trout use, which automatically provides for the application of all of North Carolina's approved Trout criteria shown to be protective of the species; including those found at *15A N.C.A.C. 02B .0211*. Specifically, the seasonal DO exemption is disapproved and stricken from the approved standard for all CWA purposes as follows:

"From a point 0.6 miles upstream of Muddy Creek to a point 0.5 miles upstream of Canoe Creek from WS-IV to WS-IV Trout and Catawba River from a point 1.2 miles upstream of Canoe Creek to a point 0.7 miles upstream of Canoe Creek (Morganton water supply intake) from WS-IC to WS-IV Trout. Named and unnamed tributaries to this portion of the Catawba River are not classified as Trout."

In accordance with 40 C.F.R 131.21(c), the approved revisions to the State water body classifications are now considered effective for CWA purposes.

With respect to the disapproved portion of North Carolina's water quality standards for these two segments, no additional action on the part of the State and/or EPA is required, as the standards that are now applicable upon this approval/disapproval action by EPA, meet the

requirements of the CWA. EPA recommends that North Carolina remove the disapproved seasonal exemption from the State's water quality standards during the next triennial review process in order to make the standards adopted by the State for these segments consistent with the federally approved standards.

If you have any questions, please feel free to contact Jim Giattina at (404) 562-9470.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Stanley Meiburg', written in a cursive style.

A. Stanley Meiburg
Acting Regional Administrator

Enclosure (1)

Enclosure 1: Use Classification Modification

Catawba River Basin

Name of Stream	Description	Existing Class	Proposed Class
Catawba River (including back-Waters of Rhodhiss Lake Below elevation 995)	From a point 0.6 miles upstream of Muddy Creek to a point 1.2 miles upstream of Canoe Creek.	WS-IV	WS IV; Tr
Catawba River (including back-Waters of Rhodhiss Lake below elevation 995),	From a point 1.2 miles upstream of Canoe Creek to a point 0.7 miles upstream of Canoe Creek. (Morganton water supply intake.)	WS-V CA	WS-V; Tr, CA